Calendar No. 806

98TH CONGRESS
2d Session

SENATE

REPORT
98-414

NEW HAMPSHIRE WILDERNESS ACT OF 1984

APRIL 26 (legislative day, APRIL 24), 1984.—Ordered to be printed

Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, submitted the following

REPORT

[To accompany H.R. 3921]

The Committee on Agriculture, Nutrition, and Forestry, to which was referred the bill (H.R. 3921) to establish additional wilderness in the White Mountain National Forest, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

SHORT EXPLANATION

The bill, as reported by the Committee, would designate 3 areas (totaling approximately 77,000 acres) in the White Mountain National Forest in the State of New Hampshire as wilderness areas and as components of the National Wilderness Preservation System. The bill provides for the Secretary of Agriculture to administer the areas designated as wilderness by the bill in accordance with the provisions of the Wilderness Act, to promptly file maps and legal descriptions of the designated areas with appropriate committees of Congress, and to make the maps and descriptions available for public inspection.

Further, the bill contains language to insure that National Forest System lands in the State of New Hampshire that were studied in the Department of Agriculture's second Roadless Area Review and Evaluation and not designated as wilderness by the bill are released for such nonwilderness uses as are deemed appropriate through the national forest management planning process. The bill also prohibits, unless expressly authorized by Congress, any further statewide roadless area review and evaluation of National Forest System lands in New Hampshire for purposes of considering the wilderness suitability of such lands.

COMMITTEE AMENDMENT

The Committee amendment to the bill strikes all after the enacting clause and inserts in lieu thereof an amendment in the nature of a substitute that is technical in nature, making clarifying and other clerical changes in the text of the bill.

PURPOSE AND NEED FOR LEGISLATION

The purpose of H.R. 3921 is to designate 2 new wilderness areas and an addition to an existing wilderness area in the White Mountain National Forest in the State of New Hampshire. The bill does not apply to that portion of the National Forest lying in the State of Maine. The legislation is the result of a review of national forest roadless areas by the Department of Argiculture, conducted during the period 1977 through 1979 and termed the second Roadless Area Review and Evaluation (RARE II). That study examined the roadless areas of the National Forest System nationwide and, through the final environmental impact statement issued by the Department of Agriculture in January 1979, recommended designation of certain of these lands as wilderness.

Because of possible delays in the forest planning process as a result of uncertainties arising from the RARE II study and continued wilderness debates, the informal Ad Hoc White Mountain National Forest Advisory Committee, comprised of individuals representing conservation organizations, industry, snowmobilers, and others met during the spring of 1983 and developed a consensus recommendation whereby most areas in the White Mountain National Forest would be allocated to wilderness or nonwilderness. That consensus recommendation, somewhat modified, is embodied in H.R. 3921.

WILDERNESS DESIGNATIONS

The 3 areas to be designated as wilderness total approximately 77,000 acres and include the Pemigawasset area of 45,000 acres, the Sandwich Range area of 25,000 acres, and an addition to the existing Presidential Range-Dry River Wilderness Area of 7,000 acres. These lands would become components of the National Wildlife Preservation System and would be managed by the Forest Service under the provisions of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131–1136). All of the areas were recommended as wilderness in the RARE II study.

A description of the wilderness proposals in H.R. 3921 follows:

Pemigewasset Wilderness

With a total roadless resource in excess of 90,000 acres, the Pemigewasset Wilderness Area comprises the largest national forest roadless area east of the Mississippi River. Although H.R. 3921 designates only about half of the roadless area as wilderness, the proposed 45,000-acre Pemigewasset Wilderness will become the second largest national forest wilderness in the east. Size, however, is not its only feature. Unlike many other undeveloped lands in the east, the "Pemi" Wilderness—as it has long been known informally—is

virtually a complete undeveloped watershed surrounded by high peaks.

The East Branch Pemigewasset River drains Franconia Brook, Lincoln Brook, the North Fork Pemi, Shoal Pond Brook, and the Carrigain Branch, all draining substantial areas themselves. A series of trails branch out from the Wilderness Trail which follows the path of a 19th century logging railroad bed. The lower portion of the Wilderness Trail, the Franconia Brook camping area, and "tote road" on the east side of the East Branch which bear the heaviest recreation load are outside of the wilderness designated by the bill to ensure complete flexibility in recreational management by the Forest Service. Upstream from the Franconia Brook crossing visitors disperse among many available trails both along the brooks and in the mountains. A visitor may stay for days and enjoy a true wilderness experience. The low-lying trails throughout the area also provide excellent opportunities for winter recreation, particularly cross-country skiing and snowshoeing.

The Committee notes that because of recreational demand, the Forest Service and the Appalachian Mountain Club currently maintain a few primitive shelters within the proposed wilderness area and carry on trail maintenance activities which prevent degradation of the wilderness resource. Maintenance and relocation of trails and related structures and other activities necessary to protect the land should, therefore, be allowed to continue after wilderness designation.

The designated wilderness is bordered on the west and north by the high peaks which form the backbone of the Appalachian Trail: Mt. Flume (4,328′), Liberty (5,089′), Lafayette (5,249′), South Twin (4,902′), and Guyot (4,508′). On the south and east the boundary is marked by the ridge which divides the Saco River watershed from that of the Pemigewasset. The boundary bisects the summits of Mt. Hancock (4,403′), Nancy (3,906′), and Tom (4,047′) and lies immediately to the North of Mt. Carrigan (4,680′). Mt. Bond (4,698′) and Owl's Head (4,025′) are entirely within the wilderness.

Even though the Pemigewasset will become the East's second largest national forest wilderness, there will remain an area of approximately equal size outside of the designated wilderness which is roadless, undeveloped, and heavily used for primitive recreation. By not including these lands in wilderness, the Committee does not intend to minimize the wild value of the lands. On the contrary, the Committee believes the high country to the north and west and the Sawyer River and North Fork Hancock drainages to the south and east would benefit from continued roadless management and could be considered as wilderness additions in the future. Accordingly, the Committee urges the Forest Service to maintain the sensitive management necessary to protect the area's outstanding wild value.

Sandwich Range Wilderness

The proposed 25,000 acre Sandwich Range Wilderness protects a series of mountains and ridges in the southern portion of the White Mountain National Forest. The prime attractions of this area include Mt. Passaconaway (4,060′), Whiteface (4,000′), Tripyramid

(4,140'), and Sandwich as well as the Bowl Natural Area and several scenic brooks and ponds.

The area contains many miles of hiking trails and several primitive shelters, maintained by the Forest Service and by volunteers. The Committee believes that wilderness designation of the area should not interfere with normal care and maintenance of the trails and associated structures, if the Forest Service finds such structures necessary to manage the recreation use of the area, preserve the wilderness resource, or protect the public health and safety. Of course, existing arrangements providing for trail maintenance by volunteers may be continued.

The boundaries of the Sandwich Range Wilderness were determined only after long discussions among the various interested groups and are an attempt at balancing a complex series of competing management uses.

Without describing every boundary, several specific points should be noted:

(1) Mt. Chocorua east of the area is one of the most scenic and popular mountains in America. Currently the Forest Service manages the area to provide for heavy visitation and protection of the scenic qualities. While many of the lands around Chocorua are of wilderness quality, present Forest Service management appears to be adequate to maintain that quality.

(2) A forest trail to Flat Mt. Pond Shelter has been excluded from the wilderness. The trail is currently closed to vehicles. The exclusion of the trail should not be interpreted to mean that the Committee favors opening this area to vehicles.

(3) Areas to the west of Lost Pass were excluded from wilderness so as to allow for "grooming" of cross-country ski trails with snowmobiles by a ski area permittee. The Committee does not anticipate activities in the area which would alter its current character or opportunities for primitive recreation.

(4) The northwest border of the wilderness coincides with a trail over Livermore Pass. The Greeley Pond-Scar Ridge area to the northwest is also roadless and undeveloped and currently managed for primitive recreation and to protect its wilderness values. While the bill does not include that area in wilderness at this time, the Committee believes that continuation of the present undeveloped management appears to be appropriate.

Presidential Range-Dry River additions

The 7,000 acres of additions to the Presidential Range-Dry River Wilderness will help to round out this wilderness which was created in 1975 by the Eastern Wilderness Act (88 Stat. 2096; 16 U.S.C. 1132 note).

Unlike many areas in the White Mountain National Forest, this wilderness receives relatively light use. The two additions designated by the bill provide protection for the eastern slopes of Rocky Branch Ridge, extend the wilderness to include the southern portion of Mount Alban Ridge, and protect the Razor Brook drainage.

Other national forest lands

While H.R. 3921 designates two new wilderness areas and additions to a third, the Committee notes that a substantial portion of the White Mountain National Forest remains roadless and undeveloped. That the Forest remains so wild and is so near the large cities of the northeast is a credit to the sensitive management of the Forest Service and the care all of the user groups take to see that the White Mountains retain their special character.

Many areas, other than those included in H.R. 3921, have been proposed for wilderness protection by certain conservation groups and other groups and individuals. They include Kinsman, Carr Mountain, Wild River and the "Pemi" extensions. In the past, these areas have been managed to preserve their wild character, and, as a result, the Ad Hoc White Mountain National Forest Advisory Committee did not recommend them for wilderness at this time. The Committee expects these areas to be managed in a sensitive manner, as has been the case in the past.

At the request of the Senators from New Hampshire, the following letters are included in this report:

U.S. SENATE,
Washington, D.C., April 25, 1984.

Hon. JESSE HELMS,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, D.C.

DEAR SENATOR HELMS: We are writing with regard to Committee report language for the New Hampshire Wilderness Act of 1983, H.R. 3921.

Specifically, we request that the attached letter from the Ad Hoc White Mountain National Forest Advisory Committee to the Forest Supervisor of the White Mountain National Forest be included in the Committee's report. This letter discusses the Ad Hoc Committee's concerns for future management of the Wild River area. We believe it is important to stress that the agreement outlined in the Ad Hoc Committee's letter constitutes a major element of the compromise on wilderness designations reached by the Ad Hoc Committee.

Thank you for your willingness to accommodate this request.

Sincerely yours,

WARREN B. RUDMAN,
GORDON J. HUMPHREY.

Enclosure.

AD HOC WHITE MOUNTAIN
NATIONAL FOREST ADVISORY COMMITTEE,
Concord, N.H., August 16, 1983.

JAMES R. JORDAN,
Forest Supervisor, White Mountain National Forest,
Laconia, N.H.

DEAR SUPERVISOR JORDAN: The undersigned individuals, in our attempt to draft and obtain approval of a White Mountains Wilderness Bill, have developed a position on the future management of the Wild River area. We believe that the management guidelines proposed herein are an essential element in gaining the broad con-

sensus support for the designation of additional Wilderness, the public release of the WMNF Plan and the prompt and efficient implmentation of that plan.

We have seen the phenomenon of "growing wilderness" in this Forest. Certain areas which have been harvested within recent decades, have through a combination of vigorous regeneration and retention of critical visual characteristics, have become eligible and desirable for Wilderness designation.

We recognize that no consensus exists today for Wilderness in the Wild River. We also recognize that there are serious strenuous objections to such designation by a variety of interests and individuals. Yet, there are equally serious arguments made as to the appropriateness of Wilderness for Wild River.

With the above firmly in mind, we propose the following management guidelines in order to fairly and objectively preserve the full range of options for the future use and land use allocations in Wild River Area (defined as approximately 27,000 acres known as the RARE II Wild River further planning area):

1. Motorized recreational vehicle use will be limited to a temporary snowmobile corridor. We understand and support the plan to seek an amendment to the New Hampshire snowmobile trail statute in the next legislative session. This amendment would remove statutory limitations on establishing and maintaining, within the State of Maine, a section of the New Hampshire north/south corridor. When this or any other economically feasible alternate route is approved and constructed, snowmobile use through the Wild River will be prohibited.

2. Timber harvesting will be limited. Cutting practices will retain the visual effect of a continuous canopy of trees. Timber harvesting will be sensitive and accomplished so as to retain the wild and scenic values presently and historically evident in Wild River.

3. We understand that your transportation needs for timber and recreation management can be met through winter roads and other low-impact facilities. We propose such be kept to a minimum.

4. Presently available opportunities for primitive, dispersed recreation will be retained.

We anticipate that the major protion of the Wild River RARE II area will be under Management Area 6 ("Backcountry") management. The net effect, therefore, of the timber and transportation guidelines suggested above will be on that portion of valley floor and lower slope which lies between the RARE II and "Backcountry" boundaries (approximately 8400 acres).

Because some members of our group feel strongly that careful harvesting should be allowed while some others have legitimate concerns as to the timing, location and impact of such harvesting, the exact boundaries of this 8400 acres are critically important. Accordingly, we suggest that you and your staff explore alternatives to these bounds in an effort to concentrate timber management activities, during the next ten years, in the lower portion of the valley. Past cutting patterns and likely opportunities for both recreation use and havesting in the immediate future lead us to believe that a practical division between the lower and upper parts of the valley is possible.

We stress again that the overall effect of our comments herein are to retain, for future forest planning and land use allocations, the complete range of options for the entire Wild River area.

We believe that these guidelines are realistic responsible and vital to the continuation of broad public support for a dynamic balance of uses on the White Mountain National Forest. We urge your favorable consideration and implementation of these guidelines.

Sincerely,

Abigail Avery, N.E. Sierra Club; Paul O. Bofinger, President/Forester, Society for the Protection of New Hampshire Forests; Charles Burnham, Appalachian Mountain Club; Senator Raymond Conley; Thomas Corocoran, President, Waterville Company, Inc.; Jackie Tuxill, Director, Environmental Affairs, Audubon Society of New Hampshire; Buhrman Garland, Forester, Saunders Brothers; George Hamilton; C. Russell Hardy, New Hampshire Snowmobile Association; David Olson, Institute of Natural and Environmental Resources, University of New Hampshire; Ronald Poltak, Director, Division of Parks, Department of Resources and Economic Development; David Sanderson, Specialty Vehicle Institute of America; Karl Scott, General Manager, Woodlands James River Corp.; George Zink, Wonalancet Outdoor Club.

SUFFICIENCY AND RELEASE LANGUAGE

Background

In 1924, when the U.S. Forest Service decided it should manage wilderness as one of the many uses to be made of the National Forest System, it established the Gila Wilderness in the Gila National Forest in New Mexico. The purpose was to keep some parts of the Nation's forests in the condition in which mankind had found them, both as scientific benchmarks against which civilization's works could be compared and as recreational refuges for people who wanted to temporarily get away from the stresses of civilization. During the next 40 years, the Forest Service administratively established more of these stresses, mostly in the West, from which evidence of human technology and development are substantially forbidden.

In 1964, this wilderness concept became national policy when Congress passed the Wilderness Act and established the National Wilderness Preservation System. That System incorporated the 9.1 million acres that had been set aside by the Forest Service over the previous 4 decades. Generally, the Wilderness Act specifies that within wilderness areas there will be no roads, no timber harvesting, no structures or installations, and no use of motor boats or landing of aircraft. Each wilderness area was to be an area where man was a visitor who did not remain.

The Wilderness Act gave the Forest Service 10 years to complete studies of the national forest primitive areas—areas temporarily reserved from access pending study of their suitability for wilderness designation. In addition, Congress provided that no future wil-

derness could be created in the national forests, except by Act of Congress. However, Congress did not preclude the management of lands within the National Forest System for primitive, roadless recreation, within the concept of multiple-use management.

As the Forest Service began its review of primitive areas within the national forests in the late 1960's to determine the suitability for wilderness designation of specific tracts, a number of problems arose in connection with established timber management plans. In many forests, after new sales were advertised, administrative protests were filed, charging that a particular sale would violate the statutory concept of multiple-use. Usually, the allegation was that the proposed sale was in an area that should be designated as wilderness or that should be devoted to unstructured recreation with no harvesting of timber. As timber sales became "tied up" in such appeals and the orderly management of the national forests disintegrated, the Forest Service instituted the first Roadless Area Review and Evaluation (RARE I) as the planning process to resolve the problems.

By 1973, RARE I had resulted in the selection of 274 wilderness study areas containing approximately 12.3 million acres. The other roadless areas in the RARE I inventory, having been considered and rejected for possible wilderness designation, were not protected as wilderness and remained in their full multiple-use status.

The National Environmental Policy Act (NEPA) became law on January 1, 1970. It required the Executive Branch, before making any major decision having a significant impact on the human environment, to prepare an assessment of the environmental impact of the proposed action. The NEPA was the basis of a lawsuit filed in 1972, as the RARE I process was nearing completion, that charged that the Forest Service must prepare environmental impact statements on roadless areas that were supposedly returned to multiple-use management. The Federal District Court for the Northern District of California agreed that the agency was subject to the decisionmaking process prescribed by NEPA, and all development activities on the roadless areas were stopped. See *Sierra Club* v. *Butz,* Civ. No. 72–1445–SC (N.D. Cal. 1972); 3 Environmental Law Reporter 20071.

As a result of restricted sources of timber supplies, tremendous pressures were placed on the remaining national forest lands that remained open to timber harvesting. In some forests, timber sale levels dropped dramatically below the allowable cuts. In other forests, timber sale levels were maintained, but sales were concentrated on lands outside the RARE I roadless areas. In these forests, the concentration of sales at the full sales volume on a limited area produced fears that these available areas would be overcut to the detriment of land and watersheds.

It was obvious that a remedy was needed for this situation, and the Forest Service decided that a faster planning process was the answer. Thus, the second Roadless Area Review and Evaluation (RARE II) was formulated to expedite the planning process for roadless areas. RARE II began in June 1977 and was intended to survey the roadless and undeveloped areas within the National Forest System and to distinguish areas suitable for wilderness designation from those most appropriate for other uses. The areas

found suitable for wilderness would be recommended for addition to the National Wilderness Preservation System through congressional action. The remaining roadless lands would be allocated to nonwilderness for uses determined under the multiple-use planning process, or allocated to further study.

On April 16, 1979, President Carter made final recommendations to Congress based on the review of 2,919 identified roadless areas encompassing 62 million acres in the national forests and national grasslands. The Administration recommended that wilderness designation be given to approximately 15.1 million acres of the original 62-million acre roadless inventory. Another 10.8 million acres of roadless lands were determined to require further planning before decisions were made on their future management. The balance of the areas, which totaled about 36 million acres, were allocated to nonwilderness, multiple-use management.

Much litigation has occurred since the RARE II recommendations. This has had a direct bearing on congressional consideration of wilderness legislation. In June 1979, the State of California challenged the RARE II wilderness and nonwilderness allocations on National Forest System lands in that State. *California* v. *Bergland,* 483 F. Supp 465 (E.D. Cal. 1980). the State and various environmental organizations which joined the lawsuit claimed that RARE II was legally flawed. On January 8, 1980, the Federal district court agreed with the State's position, finding that the environmental statement for RARE II was deficient under the provisions of the National Environmental Policy Act. The Court ruled that a more site-specific analysis of wilderness qualities was required for 46 of the areas allocated for nonwilderness. Additonally, the Court found flaws in the RARE II analysis process. As a result, the Court enjoined any development in the 46 disputed areas, pending preparation of an adequate environmental impact statement. The major points of the district court ruling were affirmed by the Ninth Circuit Court of Appeals. *California* v. *Block,* 690 F. 2d 753 (9th Cir. 1982).

The ruling by the Court of Appeals that the RARE II environmental impact statement was deficient had a significant impact on Forest Service activities. Although the decision applied specifically only to the 46 roadless areas in California, it was binding on other Federal district courts in the Ninth Circuit (comprising the States of California, Oregon, Washington, Idaho, Montana, Nevada, Arizona, Alaska, and Hawaii) and could be cited in States outside the Ninth Circuit's jurisdiction. The reasoning of the decision produces uncertainty regarding the RARE II study for other States. Management of roadless areas not designated as wilderness is subject to challenge through appeals and lawsuits. In fact, such challenges have occurred. There have been three lawsuits filed in the Northwest that rely extensively on *California* v. *Block*. In *Earth First* v. *Block* (Civil No. 83-6298-ME-RE, D. Oreg.), the United States District Court for the District of Oregon enjoined the Forest Service from taking or permitting any action which would be inconsistent with the wilderness character of a roadless area in Oregon until the requirements of *California* v. *Block* and the NEPA have been met. Similarly, in *Kettle Range Conservation Group* v. *Block* (Civil No. C-83-590-JLQ, E.D. Wash.), the Forest Service was enjoined

from taking or permitting any action which will change the wilderness characteristics of four roadless areas in Washington. In December 1983, the Oregon Natural Resources Council brought suit against the Forest Service in an attempt to enjoin any activity which would impair the wilderness characteristics of approximately 2.25 million acres of roadless lands in Oregon until the requirements of NEPA have been met. That suit is pending. *Oregon Natural Resources Council* v. *Block,* Civil No. 83–1902, D. Oreg.

In February 1983, Assistant Secretary of Agriculture John B. Crowell, Jr., announced that all roadless areas studied for wilderness potential during RARE II would be subject to reevaluation. This reevaluation was to be done as a part of the national forest land management planning process then underway for 120 national forest planning units and scheduled for completion in 1985.

The desire to avoid further wilderness study and to preclude litigation directed at stopping the continuation of management activities on roadless areas led to search for a legislative solution. Provisions appearing in this bill and termed "sufficiency" and "release" language are the outcome of that search. The language has appeared in legislation designating wilderness areas in Colorado, New Mexico, Alaska, Missouri, West Virginia, and Indiana.

The status of national forest areas designated for further planning by RARE II and lying east of the 100th meridian was also placed in doubt by a case originating in North Carolina. The Eastern Wilderness Act designated certain national forest lands as wilderness and designated other lands as wilderness study areas. That Act directed the Secretary of Agriculture to review the study areas for their suitability or nonsuitability for wilderness designation and to make recommendations to the President, including recommendations for wilderness study areas. In *Southern Appalachian Multiple Use Council* v. *Bergland,* (No. A–C–80–1, W.D. N.C.), a Federal district court concluded and found, in relying on the Eastern Wilderness Act, that the secretary had no authority to administratively designate "further planning" areas (and thereby administratively withhold any management activities in the area pending the completion of the study and determination of the area's status), but only to recommend areas to be designated as wilderness study areas. The court also found that the secretary could mange the areas recommended so as not to impair their suitability for wilderness, pending congressional action. The decision has had an effect on the land management planning process on eastern national forests (those affected by the provisions of the Eastern Wilderness Act) insofar as the evaluation of areas for wilderness suitability. Under the court's decision, forest plans on national forests east of the 100th meridian cannot recommend areas for wilderness designation, rather they can only recommend to Congress that such areas be studied for their wilderness suitability.

Sufficiency and judicial review of the RARE II environmental statement

The bill contains language relating to the sufficiency of the RARE II final environmental impact statement. As previously discussed, the need for the language arises because of a Federal district court decision in *California* v. *Bergland,*supra, in which it was

held that the RARE II environmental impact statement, as it applied to 46 areas considered for wilderness in California, had insufficiently considered the wilderness alternative for the areas. Activities that would impair the wilderness characteristics of the areas were enjoined until subsequent reconsideration of wilderness was completed. This action creates uncertainty over the management of some nonwilderness areas, where administrative or judicial appeals could halt some activities until adequate environmental impact statements are prepared. The Committee, in considering the bill, has reviewed the roadless areas in New Hampshire. It believes that the RARE II final environmental impact statement, insofar as National Forest System lands in New Hampshire are concerned, is sufficient, and, therefore, the bill provides that such environmental statement shall not be subject to judicial review.

Release, management, and future wilderness consideration of nonwilderness areas

The RARE II process during 1977 through 1979 took place concurrently with the development by the Forest Service of a new land management planning process mandated by the National Forest Management Act of 1976 (NFMA). That process requires the national forest land management plans to be reviewed and revised periodically to provide for a variety of uses on the land. During the review and revision process the Forest Service is required to study a broad range of potential uses and options for each national forest. NFMA provides that the option of recommending land to Congress for inclusion in the National Wilderness Preservation System is only one of the many options that must be considered during the planning process for those lands which may be suited for wilderness designation. The Forest Service is presently developing the initial, or "first generation", plan for each national forest. These are the so-called "section 6" plans, and they are scheduled for completion by September 30, 1985. Upon implementation, these plans will be in effect for 10 to 15 years before being revised and updated.

One of the goals of RARE II was to consider the wilderness potential of National Forest System roadless areas. The Committee believes that, except as to the Kilkenny Unit Area, further consideration of the wilderness option during development of the initial plans for the National Forest System roadless areas in New Hampshire and during the period when the initial plan is in effect would be duplicative of studies and reviews that have already been made by both the Forest Service and Congress. Therefore, the bill provides that the RARE II evaluation constitutes an adequate consideration of the suitability of these roadless areas for inclusion in the National Wilderness Preservation System and no further review by the Department of Agriculture shall be required prior to the revision of the initial land management plan for the national forest. This provision is necessary to ensure that these lands will be considered as functioning units of the national forests and has the practical effect of releasing these lands for multiple uses other than wilderness.

The NFMA provides that a national forest management plan shall be in effect for longer than 15 years before it is revised. The Forest Service regulations, however, provide that a forest plan

"shall ordinarily be revised on a 10-year cycle or at least every 15 years." (36 CFR 219.10(g)).

By tying future review of the wilderness option to revision of initial plans, the Committee intends to make in clear, consistent with the NFMA and the Forest Service regulations, that amendments to a plan, including those that might result in a significant change in a plan, would not trigger the need for reconsideration of the wilderness option. The wilderness option does not need to be reconsidered until the Forest Service determines (1) based on a review of the lands covered by a plan, that conditions in the area covered by a plan have changed so significantly that the entire plan needs to be completely revised, or (2) that the statutory 15-year maximum life span of the plan is expiring.

A revision of a forest plan is a costly undertaking in terms of dollars and manpower and the Committee does not expect such an effort to be undertaken lightly. When required by changing conditions, the Forest Service should make every effort to address local changes in land management plans through the amendment process, reserving the revision option only for major, forest-wide changes in conditions.

For example, if a new powerline is proposed to be built across a forest, any modification of the applicable forest plan to permit the line to be built would be accomplished by an amendment, not a revision, and therefore the wilderness option would not have to be reexamined. It is only when a proposed change in management would significantly affect overall goals or uses for the entire forest that a revision would be made. An example of such a situation is the recent eruption of Mt. St. Helens. Because it affected so much of the land in the Gifford Pinchot National Forest, including the forest's overall timber harvest schedule, the necessary changes in the applicable forest plan would likely be considered a revision of the plan. In this regard, the Committee notes that in the vast majority of cases the 10- to 15-year planning cycle established by the NFMA and in the existing regulations is short enough to accommodate most changes in circumstances without triggering more frequent plan revisions. It is highly unlikely that conditions will change so dramatically during the 10- to 15-year planning cycle that anything more comprehensive than a plan amendment would be required.

It is not likely that primitive, semiprimitive, or motorized recreation use would change so rapidly over an entire national forest that the Forest Service or the Federal courts would be justified in concluding that the conditions in the forest are so significantly changed as to justify making a plan revision prior to the normal 10- to 15-year life span for the existing plan. For example, recreation use might increase in a specific area or areas resulting in changed conditions in the forest itself. In the judgment of the Forest Service, such changes could be met by amending the plan, as opposed to revising it. This is not to say that an increase in "demand" for recreation in a given area will automatically, in-and-of-itself, constitute a valid requirement for even a plan amendment. In addition, it is not the Committee's intent, nor, in the judgment of the Committee, the intent of any Federal statute, to

"force" the Forest Service into either plan amendments or revisions as a result of changes in use patterns in the national forests.

The Chief of the Forest Service has indicated that, in his view, most plans will be in existence for 10 years before they are revised. The Committee shares this view and anticipates that plans will not be revised in advance of their anticipated maximum life span absent extraordinary circumstances. The Committee understands and expects that with the first generation plans to be completed by late 1985 in most cases, the time of revision for most plans will begin about 10 years from the date of implementation for each plan. Accordingly, the Committee expects that the wilderness option for any area will not be reexamined again until the plans have been in effect for 10 years, unless the area is specifically designated as a wilderness study area by Congress.

The Committee notes that administrative or judicial appeals may mean that some of the first generation plans will not actually be implemented until the late 1980's, in which case plan revisions would not take place until a 10-year period has elapsed from the date each plan is implemented. If the full 15 years allowed by NFMA elapses before a revision is made, the wilderness option may not in some cases be reviewed until the year 2000 or later.

The question has also arisen as to whether a revision would be triggered if the Forest Service is directed by the courts to modify or rework an initial plan, or if the Forest Service withdraws an initial plan to correct technical errors or to address issues raised by an administrative appeal. The Committee wants to make it as clear as possible that any reworking of an initial plan for such reasons would not constitute a revision of the plan and would not require the reconsideration of the wilderness option for the lands covered by the plan.

This position is based on the fact that court-ordered or administrative reworkings or modifications of a plan would most likely come about to resolve inadequacies in the preparation of the plan under the requirements of NFMA and and other applicable laws. Since the NFMA, and the implementing regulations, specify that a plan revision will only occur when the Secretary finds that there has been a significant change in conditions in the forest planning unit, or at least once every 10 to 15 years, it is clear that such reworking or modification would not be a revision for at least two reasons: (1) the modification would not be the result of any significant change in conditions in the forest planning unit and (2) a plan must be properly prepared and implemented before it can be revised.

The fact that the wilderness option for roadless areas will be considered in the future during the planning process raises the hypothetical argument that areas not designated for wilderness must be managed to preserve their wilderness attributes so that they may be considered for such designation in the future. This interpretation, if accepted as correct, would result in all roadless areas being kept in "de facto" wilderness status indefinitely. Such a requirement would be detrimental to the orderly management of nonwilderness lands and the goals of the Forest and Rangeland Renewable Planning Act of 1974.

To eliminate any possible misunderstanding on this point, the bill provides that areas not designated as wilderness need not be managed for the purpose of protecting their suitability for future wilderness designation pending revision of the initial plans. The intent is that these lands be managed for multiple uses other than wilderness in accordance with the land management plan.

The Forest Service already has statutory authority to manage roadless areas for multiple uses other than wilderness. The Committee wishes to make clear, however, that study of the wilderness option in future generations of section 6 plans is required only for those lands that may be suited for wilderness designation at the time of the development of such future plans. During the lifetime of each generation of plans, then, the forest land and other resources can, in fact, be put to the uses that are authorized in the plan. In short, one plan will remain in effect until the second plan is implemented, and the forest will be managed in accordance with the plan that is in effect, even if such management may result in the land no longer being suited for wilderness.

Thus, it is likely that areas evaluated for wilderness suitablity in one generation of plans may not physically qualify for wilderness consideration by the time the next generation of plans is prepared. For example, the Committee notes that many areas that were studied for wilderness in the RARE II, recommended for nonwilderness, and released administratively in April of 1979, may no longer qualify as suitable wilderness study areas as a result of approved multiple-use activities having been carried out.

Under this provision, it is the Committee's intent and understanding that the Forest Service may conduct a timber sale in a roadless area being managed for multiple-use purposes other than wilderness and not be challenged on the basis that the area will be spoiled for consideration as wilderness in a future planning cycle. Once into a second-generation plan, the Forest Service may, of course, manage a roadless area according to that plan without the necessity of preserving the wilderness option for the third-generation planning process. Should the particular area still qualify for possible wilderness designation at the time of the third-generation planning process, which is likely in many cases, the wilderness option for the area would be considered at that time under the requirements of NFMA. In short, the wilderness option must be considered in each future planning generation for all of the areas in each planning unit that still possess the required wilderness attributes. There is no requirement, however, that these attributes be preserved for the purpose of maintaining the suitability of the affected areas for future evaluation as wilderness in the planning process.

In the Committee's judgment, the Forest Service is not required to manage multiple-use lands in a "de facto" wilderness manner. Of course, the Forest Service can, if it determines such action appropriate, manage lands to preserve their natural undeveloped characteristics if the applicable plan calls for such management. Likewise, the Forest Service can, if through the land management planning process it determines such action appropriate, provide for other multiple uses on lands that have not been designated as wilderness or as wilderness study areas by Congress. The Forest Serv-

ice should be able to manage all nonwilderness lands in the manner determined appropriate through the land management planning process.

In arriving at this position, the Committee has carefully considered and balanced the wishes and concerns of many varied interest groups involved in this issue, and wishes to emphasize the vital importance of completing and implementing the forest plans in New Hampshire and ending the state of uncertainty over appropriate land management that now exists in the national forests.

No further statewide wilderness review

With regard to the possibility of the Forest Service undertaking future administrative reviews similar to RARE I and RARE II, since the National Forest Management Act of 1976 planning process is now in place, the Committee wishes to see the development of any future wilderness recommendations by the Forest Service take place only through that planning process, unless Congress expressly asks for additional evaluations through authorizing legislation. Therefore, H.R. 3921 prohibits the Department of Agriculture from conducting any further statewide roadless area review and evaluation of National Forest System lands in New Hampshire for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System. This provision does not prohibit the Forest Service from considering the wilderness option during a normal plan revision when the entire State is covered by a single plan.

Kilkenny and Kancamagus units

The bill includes language providing that the release provision of section 5 of the bill does not apply to the area in the White Mountain National Forest that is known as the "Kilkenny Unit Plan Area". This area is to be considered for all uses, including wilderness, during preparation of a land management plan for the White Mountain National Forest. The Committee expects that the Forest Service will consider recommending wilderness designations for those lands for which it is appropriate in this unit.

The Kancamagus Unit Area, however, should be treated in a different way. The Kancamagus Unit plan, which considered wilderness resources, was completed in 1976. It was accompanied by an environmental impact statement that has not been challenged in court, and the plan has been in effect since that time.

The Committee has examined certain roadless areas within the northern portion of the Sandwich Range Wilderness, determining an appropriate boundary for wilderness protection and nonwilderness areas.

The Committee believes that the Kancamagus environmental impact statement is adequate. The Committee has reexamined the lands in the Kancamagus Unit in the course of developing the bill and has concluded that, unlike the Kilkenny Unit, no further wilderness consideration for roadless lands in the Kancamagus Unit is necessary in this round of forest planning. The Committee reaffirms that these lands have been properly "released" and that those lands not designated as wilderness in H.R. 3921 that may retain wilderness characteristics need not be considered further by

the Forest Service for wilderness purposes until the next forest plan, sometime in the 1990's.

COMMITTEE CONSIDERATION

Hearings

The Subcommittee on Soil and Water Conservation, Forestry, and Environment, held a hearing on Tuesday, November 8, 1983, on S. 1851, the companion measure to H.R. 3921. The hearing was chaired by Senator Roger Jepsen.

In his opening statement, Senator Jepsen said a major consideration in the designation of wilderness areas is the impact on resource values. He acknowledged that, while the value of some resources may be diminished or lost altogether, the value of others is enhanced.

Senator Gordon J. Humphrey said the bill is the result of several years work among groups in New Hampshire, and noted that a broad consensus of people support its enactment. Senator Warren B. Rudman agreed, and said that "soft release" language contained in the bill represents the view in New Hampshire that wilderness designation is a continuing process.

The Honorable John B. Crowell, Jr., Assistant Secretary for Natural Resources and Environment, testified for the Department of Agriculture. He said the Administration supports enactment of the bill, but has some concern over the soft release language in the bill, which is good only for the first planning cycle. He said it is the feeling of the Department that long-term management aspects of national forest lands call for release that is preferably permanent in nature, but certainly that is longer than a period which would carry the first generation plans only to the point where they might be revised under the requirements in the National Forest Management Act.

Mr. Crowell also commented on potential amendments to the bill relating to the Kilkenny area in New Hampshire and a portion of the Evans Notch area in Maine. He indicated that the Department does not believe that legislation is needed to ensure reevaluation of the wilderness potention of these areas, but if Congress develops legislation the Department would not object if the language clearly states that the evaluation will be completed as part of the forest planning process. Also, any requirement regarding management of the areas to protect their wilderness character should apply only to the areas found suitable for wilderness in the forest plan and recommended for wilderness designation to Congress and should be applicable only for a specific period of time within which Congress may act on the recommendations, such as one full Congress. Any provision directing the Secretary to calculate timber yields for the White Mountain National Forest based on timber volumes within areas identified for wilderness consideration would result in eventual overharvesting of the rest of the forest and, therefore, would not be acceptable.

Testifying on the first panel were Mr. Paul O. Bofinger, President and Forester of the Society for the Protection of New Hampshire Forests; Mr. Conrad R. Hardy, New Hampshire Snowmobile Association; Mr. George E. Zink, Wonalancet Outdoor Club; and

Mr. George T. Hamilton, Regional President, BankEast. Mr. Bofinger served as Chairman of the Ad Hoc White Mountain National Forest Advisory Committee, which was composed of representatives of a wide range of groups with an interest in the White Mountain National Forest and which made recommendations on which S. 1851 is largely based. The other members of this panel were also members of that Advisory Committee.

Mr. Bofinger testified that the Ad Hoc Advisory Committee was able to reach a consensus on the principal objectives of the bill, that is to provide for the release of the forest plan for the White Mountain National Forest, to avoid another RARE program, and to address the wilderness issue. With regard to release language, Mr. Bofinger indicated that the consensus was possible primarily because the group agreed to so-called "soft release" language that would permit the wilderness issue to be looked at again in 10 to 15 years as part of the forest planning process. Mr. Hardy spoke in favor of the bill, saying it would allow the forest plan to be released, and would keep the State from being subject to another RARE program. Mr. Zink addressed the importance of tourism to the State, and said that the attractive mountain scenery preserved by wilderness is important to that industry. He testified that S. 1851 represents an acceptable compromise among the various interests of those who use the White Mountain National Forest. Mr. Hamilton said there are regional differences among forests around the country, and New Hampshire's is different due to its position in the crowded Northeast. Further, Mr. Hamilton indicated that the release language will provide for effective public involvement and continuation of periodic reviews of Forest Service planning efforts.

The next panel included Mr. Peter L. Oliver, President, Appalachian Mountain Club; Buhrman B. Garland, Vice President-Woodlands, Saunders Brothers; and Ms. Abigail Avery, Conservation Chairman, New England Chapter, Sierra Club.

All witnesses on the panel testified in favor of the bill and advocated the soft release language in the bill. Mr. Oliver stated that there are enough changing socioeconomic conditions in the region to make it advisable to review wilderness status from time-to-time and that his organization sees a 10-year cylce as being a very reasonable period in which to review the wilderness status of lands in the White Mountain National Forest. In response to questioning, Mr. Garland said he thought the release language was adequate to protect the land management plans that will be issued by 1985. Ms. Avery also stated that the boundaries of the wilderness areas designated in the bill represent compromises and should not be further changed. She also called for protection of the Kilkenny and Caribou/Speckled areas so that they can be adequately studied for possible wilderness designation in the future.

Testifying on the final panel were Mr. Peter Kirby, Director, Forest Management Programs, The Wilderness Society; Mr. Scott Shotwell, Assistant Vice President, Government Affairs, National Forest Products Association; and Mr. Tim Mahoney, Washington Representative, Sierra Club.

Mr. Kirby said the Wilderness Society opposes the bill because it fails to provide adequate and necessary protection for many of the

outstanding wild places in the White Mountains. He recommended that 6 additional areas, totaling about 146,000 acres, be made wilderness study areas. Mr. Shotwell said the National Forest Products Association opposes the bill because of the soft release language. What is needed, he said, is strong and clear sufficiency language to end the legal challenges based on RARE II and release language to provide some element of certainty for a reasonable period of time. Mr. Shotwell urged that the bill be amended to provide for release language similar to that in S. 543, the Wyoming wilderness bill passed by the Senate earlier in 1983. The Wyoming bill provides that the wilderness option would be considered in each future planning generation begun after December 31, 2000. Mr. Mahoney testified in support of the bill and devoted his testimony to the release language. Mr. Mahoney gave a brief history of the development of release language, stated why release language contained in the Wyoming bill (S. 543) is unacceptable to environmental groups, and indicated that the Sierra Club can support S. 1851 because it does not preclude reexamination of the wilderness question in the future if that is what the people of New Hampshire desire.

A letter from Governor John Sununu in support of S. 1851 was also included in the record.

Committee markup

The Committee met in open session on Wednesday, March 28, 1984, and considered legislation to designate certain areas in the National Forest System in the States of North Carolina, Vermont, New Hampshire, and Wisconsin as wilderness areas, wilderness study areas, or national recreation areas.

In his opening statement, Chairman Helms noted that he had previously chaired a hearing on the North Carolina wilderness bill and that there was, as far as he was aware, agreement among interested parties regarding the areas to be designated as wilderness in that bill and in the other bills. However, the Chairman went on to point out that concerns had been raised over the release language included in the bills because it was viewed by many as not being specific enough in establishing the timing of any further wilderness review in the future.

The Chairman emphasized his desire to get the legislation passed, but cautioned that the release language issue is a matter that involves national forest policy and that goes beyond the interests of individual States.

After expressing his appreciation for Senator Jepsen's help and cooperation in holding hearings on the wilderness bills, Senator Leahy described the development of the wilderness bill for Vermont, emphasizing that the designation of wilderness areas is not national precedent-setting legislation but is instead a State matter that affects principally the residents of the State that is involved. He noted that there has been some question raised regarding the release language, but Stated that the language included in the bills had been agreed to during the course of their long development process and urged the Committee to agree to that language.

Senator Jepsen observed that the wilderness bills have an unusual amount of local appliction. Noting that some disagreement on

the release language had arisen, he pointed out that the bills had been developed with the cooperation of a great number of people, including the Forest Service. Senator Jepsen expressed his hope that the Committee would promptly report the bills to the Senate.

Senator Melcher began his remarks by reviewing the history and development of the Eastern Wilderness Act in the early 1970's. He noted that one of the most significant decisions made during that process was to include the eastern wilderness areas under the same laws as govern wilderness areas in the rest of the country—predominantly in the West. He further noted that the national forests were, by design, incorporated into a single National Forest System.

Senator Melcher next pointed out that the release language in the bills being considered by the Committee—the so-called Colorado language—was consistent with most of the wilderness bills that had been previously enacted. However, since that language was first develop, the Forest Service has begum to recognize that it has certain problems. In particular, he pointed out that the language had originally been viewed as being consistent with the principles set forth in the National Forest Management Act of 1976—that wilderness is one of the multiple uses and therefore the wilderness values of national forest lands would have to be reconsidered as part of the planning process during each of the 10- to 15-year forest planning cycles. The problem with the language, Senator Melcher explained, is that it is not specific enough on its face to ensure the stability in the management process envisioned in the 1976 Act, and that this amibiguity can only be clarified by referring to the Committee report language that accompanied the bills when they were developed in Congress. Stating that the courts will not always look beyond the clear wording of a statue to determine the intent of Congress as expressed in Committee reports, Senator Melcher urged that the language in the bills be modified to make certain the agreed-on purpose of the release language is clear in the bills themselves—that is, that the wilderness option would be reviewed during the 10- to 15-year forest planning cycles, but not more frequently.

After an explanation of the bills, the Chief of the Forest Service, Mr. Max Peterson, was asked by the Chairman to state the Department's position on the bills pending before the Committee. Mr. Peterson began by noting that he participated in the drafting of the original Colorado release language in 1979 and, thus, was able to present the Department's current position with the benefit of 5 years of hindsight. He then explained that the release language included in the bills would result in four particular problems arising. First, as to the Vermont and New Hampshire bills, the prohibition against any further statewide roadless area review by the Forest Service would be in direct conflict with the requirements of the National Forest Management Act of 1976 that a land management plan, required to be developed at least once every 10 to 15 years, for the national forests in those States be prepared for an entire forest and include a review of the wilderness option. This conflict would result from the fact that there is only one natioinal forest in each of those States, and, thus, the development of the required land management plan would necessarily involve the consideration

of the wilderness option in connection with the entire forest in those particular States.

Second, as to the New Hampshire bill, Mr. Peterson pointed out that the release language only applies to lands that were included in the RARE II final environmental statement, but that in New Hampshire several roadless areas were excluded from RARE II. As a result, unless the release language was changed, the wilderness option for these areas would have to be reviewed in connection with the development of the initial plan.

In response to a question by Senator Leahy, Mr. Peterson indicated that the problems he had identified were technical in nature and could easily be corrected by the Committee.

The third point raised by Mr. Peterson concerned the duration of the release from wilderness review. He noted that the Department was not certain that a court, in deciding the matter in connection with a lawsuit, would in fact rely on the report language and interpret the bill to allow wilderness review only as a part of the 10- to 15-year planning cycle. This problem, he noted, could be eliminated by making it clear in the bills themselves that the release is for a 10- to 15-year period.

Fourth, Mr. Peterson stated that the release language was not clear as to how long the Forest Service would be released from managing as wilderness the areas that were not designated as wilderness in the bills but that might be suitable for wilderness designation at some future time.

In the discussion that followed, Mr. Peterson responded to a question about what constitutes a revision of a plan by citing a case in New Mexico were a plan was only in effect for 90 days when it was discovered to be based on erroneous information regarding timber use. The plan was withdrawn and is being redone. He noted that in that case the change to the plan would be very significant, so that it was unclear whether it involved a revision or not. Senator Melcher then noted that the Colorado release language was included in the New Mexico bill and, thus, it is possible that case could lead to a court challenge and resulting delay in implementing the new plan if the Forest Service does not review the wilderness option again.

Senator Hatch then noted that the wilderness situation varied greatly among States—particularly between Eastern States and some Western States—and that as a result he was concerned that the resolution of the release language in the pending bills not be viewed as setting a national precedent. Some discussion of this point followed during which Senator Leahy expressed his agreement with the position taken by Senator Hatch.

Senator Melcher again stated that, regardless of the desire to let individual States have their option on the matter of wilderness, it must be recognized that the bills really are national in scope. He noted that, since there is no disagreement over what the Colorado language should mean, the language of the bills should be clarified to unequivocally state that meaning.

After a brief discussion, Senator Jepsen moved that the Committee report the New Hampshire wilderness bill. By voice vote, the Committee agreed to report H.R. 3921 to the Senate with the recommendation that it pass.

SECTION-BY-SECTION ANALYSIS

Short title

Section 1 provides that the bill may be cited as the "New Hampshire Wilderness Act of 1984".

Designation of wilderness areas

Section 2 designates certain lands in the White Mountain National Forest, New Hampshire, totaling approximately 77,000 acres, as wilderness areas and as components of the National Wilderness Preservation System as follows:

(1) approximately 45,000 acres, which are generally depicted on a map entitled "Pemigewasset Wilderness—Proposed", dated July 1983, and which shall be known as the Pemigewasset Wilderness Area;

(2) approximately 25,000 acres, which are generally depicted on a map entitled "Sandwich Range Wilderness—Proposed", dated July 1983, and which shall be known as the Sandwich Range Wilderness; and

(3) approximately 7,000 acres, which are generally depicted on a map entitled "Presidential Range-Dry River Wilderness Additions—Proposed", dated July 1983, and which are incorporated in and deemed to be a part of the Presidential Range-Dry River Wilderness as designated by Public Law 93-622.

Maps and descriptions

Section 3 provides that, as soon as practicable after enactment of the bill, the Secretary of Agriculture is required to file maps and legal descriptions of the areas designated as wilderness in the bill with the House Committees on Agriculture and on Interior and Insular Affairs and with the Senate Committee on Agriculture, Nutrition, and Forestry. In addition, this section provides that the maps and descriptions shall have the same force and effect as if included in the bill, except that correction of clerical and typographical errors may be made by the Secretary. The maps and descriptions must be on file and available for public inspection in the Office of the Chief of the Forest Service.

Administration of wilderness

Section 4 requires that, subject to valid existing rights, each of the areas designated at wilderness by the bill be administered by the Secretary in accordance with the provisions of the Wilderness Act, except that any reference in those provisions to the effective date of that Act would be deemed to be a reference to the date of enactment of the bill.

Effect of RARE II

Section 5(a) contains congressional findings to the effect that the Department of Agriculture has completed the second Roadless Area Review and Evaluation (RARE II) and that Congress has made its own evaluation of National Forest System roadless areas in New Hampshire, including reviewing the environmental impacts associated with alternative uses of these areas.

Section 5(b) provides that Congress determines and directs, with respect to the National Forest System lands in New Hampshire, that—

(1) without passing on the question of the legal sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than New Hampshire, such final environmental statement shall not be subject to judicial review;

(2) to the extent such lands were reviewd in the RARE II, that review and evaluation shall be considered to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System for the purposes of the initial land managment plans required by law. Also, the Department shall not be required to review the wilderness option for such lands prior to revision of the initial land management plans and in no case prior to the statutory date for completion of the initial planning cycle;

(3) to the extent such lands were reviewed in the RARE II final environmental statement and not designated as wilderness by the bill, such lands need not be managed for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans; and

(4) unless expressly authorized by Congress, the Department shall not conduct any additional statewide roadless area review and evaluation of such lands for the purpose of determining the suitability of any additional areas for inclusion in the National Wilderness Preservation System.

Section 5(c) provides that the provisions of this section shall not apply to the area in the White Mountain National Forest, New Hampshire, which is depicted on a map entitled "Kilkenny Unit Plan Area", dated October 1983, which area shall be considered for all uses, including wilderness, during preparation of a forest plan for the White Mountain National Forest pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended.

Section 5(d) provides that the provisions of this section shall not apply to any lands in the White Mountain National Forest located within the State of Maine.

ADMINISTRATION VIEWS

On November 18, 1983, Chairman Helms received a report for Deputy Secretary of Agriculture Richard E. Lyng expressing the Department's support for the enactment of S. 1851, the companion bill to H.R. 3921, if amended as suggested in the report. This report, along with the November 8, 1983, testimony to the Subcommittee on Soil and Water Conservation, Forestry, and Environment presented by Assistant Secretary of Agriculture John B. Crowell, Jr., on S. 1851, follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., November 18, 1983.

Hon. JESSE HELMS,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: As you requested, here is our report on S. 1851, a bill "To establish additional wilderness areas in the White Mountain National Forest."

The Department of Agriculture recommends enactment of the bill if amended as suggested herein.

S. 1851 would designate two new wilderness areas and one addition to an existing wilderness area, in the State of New Hampshire for a total of 77,000 acres. The bill would resolve land designations in the State of New Hampshire associated with the Roadless Area Review and Evaluation (RARE II) by designating wilderness and releasing other lands for uses other than wilderness in the initial National Forest Land Management Plan.

The lands proposed for wilderness were recommended in the RARE II Final Environmental Impact Statement for wilderness designation. The proposed Pemigewasset Wilderness area was later changed to a futher planning area as a result of comments received from the New Hampshire congressional delegation and the Governor during the comment period that followed the issuance of the Final Enviornmental Impact Statement. The original RARE II recommendation for the Pemigewasset area was for wilderness designation of 76,610 acres. S. 1851 would designate a 45,000-acre Pemigewasset Wilderness, a 25,000-acre Sandwich Range Wilderness, and a 7,000-acrea Presidential Dry River Wilderness addition. It is our understanding that the recommendations contained in the proposed legislation represent a consensus involving the congressional delegation and the Governor.

We, therefore, support designation of the area recommended for wilderness designation in S. 1851. We approve, likewise, of the bill's declaration that the RARE II Final Environmental Impact Statement for New Hampshire was legally sufficient and that adequate consideration has been given to the wilderness and nonwilderness values for all roadless areas in the State recommended in RARE II either for wilderness designation or for uses other than wilderness. This language was necessitated by the decision of the United States Court of Appeals for the Ninth Circuit in the *State of California, et al.,* v. *Block, et al.,* handed down in October 1982.

The existing language would release areas in New Hampshire from further wilderness consideration only until initial land management plans prepared under the National Forest Management Act of 1976 are revised. This language, if enacted, would perpetuate the current uncertainties over the land base that will be available over the long term for nonwilderness multiple-use activities. Local communities have a right to have some certainty over the land base which will be available to support economic activities upon which their future well-being depends. Under the language of the bill, if a change in physical conditions or litigation results in the need to revise a Forest Plan in only 2 years, the entire roadless

area review issue would need to be reevaluated. This would be extremely disruptive and a waste of Forest Service time and manpower.

We believe that, since Congress has now considered roadless and undeveloped lands in the State of New Hampshire for designation as wilderness and is now in the process of enacting wilderness legislation, the remaining National Forest System lands not designated as wilderness should be released in this bill from further wilderness consideration and that release should be permanent or at least long term.

We recommend that the bill be amended on page 4, lines 22, 23, 24, and 25 by deleting all words following the word "option" and substitute, in lieu thereof, the words "in any future plans;" and on page 5, line 4 by deleting the words "pending revision of the initial plans".

It is estimated that survey, planning, and related activities necessary to implement the new wildernesses would cost approximately $100,000 over the next 5 years.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

RICHARD E. LYNG,
Deputy Secretary.

Enclosure.

USDA SUPPLEMENTAL STATEMENT—RECOMMENDED AMENDMENTS TO S. 1851, OCTOBER 1983

1. In subsection 5(b)(2) delete everything following "option" and insert in lieu thereof, "in any future plans;".
2. In subsection 5(b)(3) delete the words "pending revision of the initial plans".

STATEMENT OF JOHN B. CROWELL, JR., ASSISTANT SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT, U.S. DEPARTMENT OF AGRICULTURE, ON S. 1851, A BILL TO DESIGNATE COMPONENTS OF THE NATIONAL WILDERNESS PRESERVATION SYSTEM IN THE STATES OF NEW HAMPSHIRE AND MAINE

Mr. Chairman and members of the committee, I am pleased to have this opportunity to present the Administration's views on S. 1851 that would designate additional wilderness in the White Mountain National Forest, which is the only National Forest in the States of New Hampshire and Maine. The Forest is primarily located in New Hampshire but extends into Maine as well.

S. 1851 would designate two new wildernesses and one addition to an existing wilderness in the State of New Hampshire for a total of 77,000 acres. The areas to be designated include the Pemigewasset area, approximately 45,000 acres; the Sandwich Range area, approximately 25,000 acres; and the Presidential Range-Dry River addition, approximately 7,000 acres. All three of these areas were recommended for wilderness designation in the RARE II Final Environmental Impact Statement which was issued in 1979.

The proposed Pemigewasset wilderness was later changed to the further planning category as a result of comments received from the New Hampshire Congressional Delegation and the Governor during the comment period that followed the issuance of the Final Environmental Impact Statement. However, it is our understanding that S. 1851 represents a consensus among the members of the Congressional Delegation and the Governor of the State of New Hampshire that the Pemigewasset area become wilderness.

We, therefore, support designation of the areas recommended for wilderness designation in S. 1851. We approve, likewise, of the bill's declaration that the RARE II Final Environmental Impact Statement for New Hampshire and Maine was legally sufficient and that adequate consideration had been given to the wilderness and nonwilderness values for all roadless areas in these two States recommended in RARE II either for wilderness designation or for uses other than wilderness. The desirability of incorporating this concept was enhanced by the decision of the United States Court of Appeals for the Ninth Circuit in the *State of California, et al.,* v. *Block, et al.,* handed down in October 1982.

The release language contained in section 5(b)(2) would release the roadless areas of the White Mountain National Forest in both New Hampshire and Maine that were inventoried in RARE II and not designated for wilderness by this bill. The areas would be released from further wilderness consideration only until the initial land management plans prepared under the National Forest Management Act of 1976 are revised. We continue to recommend that the release language be strengthened to provide more long term or permanent stability to the National Forest System lands that are to be managed for multiple uses other than wilderness.

We believe that, since Congress has now considered roadless and undeveloped lands in the State of New Hampshire and Maine for designation as wilderness and is now in the process of enacting wilderness legislation, the remaining National Forest System lands not designated as wilderness in New Hampshire and Maine should not only be released in this bill from further wilderness consideration, but that such release should be permanent or at least long term.

We recommend that the bill be amended on page 4 lines 21, 22, and 23 by deleting all words following the word "option" and substitute, in lieu thereof, the words "in any future plans," and on page 5 line 4 deleting the words "pending revision of the initial plans."

We are aware that some amendments may be offered to S. 1851 in regard to the Kilkenny area in New Hampshire and a portion of the Evans Notch area in Maine. We would like to take the liberty of addressing these potential amendments.

The release language in section 5 of S. 1851 would release roadless areas reviewed by the Department of Agriculture in RARE II. The Kilkenny area and the Evans Notch area were studied for their wilderness potential in individual unit plans completed in 1975 and 1977, respectively. These areas were not reevaluated in RARE II but will be further analyzed for their wilderness potential as part of the Forest plan currently being prepared.

We do not believe legislation is needed to assure reevaluation of the wilderness potential of these areas; however, if Congress feels legislation is desirable to clarify the situation, we would not object, providing the language clearly states that the evaluation will be completed as part of the forest planning process. We also believe it is essential to clearly state that the Forest Plan will result in a decision to manage the areas either for multiple uses other than wilderness or a recommendation to the Congress that the areas, or portions thereof, be designated as wilderness. This provision is necessitated by the decision of the Western District Court in North Carolina that, when further planning areas east of the 100th meridian are studied as part of the forest land management plans, the decision can be either to manage the area for uses other than wilderness or recommend the area to the Congress for designation as a Wilderness Study Area.

The Evans Notch area would include the area called Caribou-Speckled Mountain. The amendment in question states that lands within the Evans Notch Area, Maine, identified for wilderness consideration in the Forest Plan shall be managed to protect their present wilderness character until Congress determines otherwise. It is important that such an amendment be amended to make it clear that the management requirements apply only to the areas found suitable for wilderness in the Forest Plan and, subsequently, recommended for wilderness designation to the Congress. We also believe it is important to provide a specific period of time for Congress to act on the recommendations, such as one full Congress.

The final provision of the proposed amendment would direct the Secretary to calculate the potential yield for the White Mountain National Forest based on the timber volumes within areas identified for wilderness consideration. This provision would in the long run direct the Forest Service to overcut the Forest. We cannot accept this provision if offered.

Mr. Chairman, the Department of Agriculture recommends enactment of S. 1851, if the release language contained in section 5 of the bill is amended as suggested.

This concludes my prepared statement. I will be happy to answer any questions you may have.

COST ESTIMATE

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee estimates that the enactment of H.R. 3921, as reported, would result in a cost to the Federal Government of approximately $500,000 over the 5 fiscal years beginning with 1985. In addition, receipts from the sale of timber could be reduced by up to $115,000 per year.

In accordance with the Congressional Budget Act of 1974, the Congressional Budget Office prepared the following cost estimate, which is consistent with the Committee's cost estimate:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., April 13, 1984.

Hon. JESSE A. HELMS,
Chairman, Committee on Agriculture, Nutrition and Forestry, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 3921, the New Hampshire Wilderness Act of 1984, as ordered reported by the Senate Committee on Agriculture, Nutrition and Forestry, March 28, 1984.

The bill designates as wilderness 77,000 acres of national forest land in the state of New Hampshire. Based on information from the National Forest Service, we estimate that surveying and planning costs resulting from the wilderness designation will be approximately $500,000 over the five fiscal years beginning with 1985.

In addition, gross timber receipts to the federal government could be reduced up to $115,000 per year. According to the provisions of the National Wilderness Preservation System Act, all timber in areas designated as units of the national wilderness preservation system is removed from the timber base of the national forest in which it is located. This decreases the annual potential yield of the forest. As a result, the Forest Service could reduce annual timber sale offerings by as much as 4 million board feet.

The federal government makes payments to state and local governments based on the amount of receipts collected from the sale of timber on national forests. These payments would be reduced slightly if federal timber receipts are lower.

Further details on this estimate are available from Debbie Goldberg (226–2860) of our Budget Analysis Division.

Sincerely,

ERIC A. HANUSHEK,
(For Rudolph G. Penner).

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rule of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 3921. The bill would designate certain lands in the State of New Hampshire as components of the National Wilderness Preservation System.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

Subject to valid existing rights, the Wilderness Act prohibits future harvesting of timber and future entry for mineral extraction on lands included in the National Wilderness Preservation System. Enactment of the bill will result in approximately 77,000 acres being placed in the National Wilderness Preservation System, and thereby, will restrict uses other than wilderness on such land.

Wilderness designation will result in restricting private individuals' motorized use of public lands. Activities which have previously occurred, such as firewood gathering, motorized access for hunting and fishing, and trail bike riding, will be terminated.

A wilderness permit may be required of individuals using certain wilderness areas and, therefore, limited personal information would be collected in administering the program. It is anticipated that the impact on personal privacy would be minimal.

The bill will not result in any significant additional paperwork or recordkeeping requirements.

○